

NATURAL RESOURCES BOARD

Minutes

The regular meeting of the Natural Resources Board was held on Wednesday, October 23, 2002, at the Holiday Inn Campus Hotel/Green Mill, Highway 37 and Craig Road, Eau Claire, Wisconsin. The meeting was called to order at 8:35 a.m. All October Board Agenda business was conducted by the Full Board.

PRESENT: Trygve A. Solberg, Chair
James E. Tiefenthaler, Vice Chair
Gerald W. O'Brien, Secretary
Herbert F. Behnke
Howard D. Poulson
Stephen D. Willett

ABSENT: Catherine Stepp

ORDER OF BUSINESS

1. Minutes to be approved.
- 1.A. Full Board Minutes of September 25, 2002.

Mr. Tiefenthaler MOVED, seconded by Mr. Poulson, approval of the Full Board Minutes of September 25, 2002, as presented. The motion was carried unanimously by those members present. Ms. Stepp was absent.

- 1.B. Agenda for October 23, 2002.

Secretary Bazzell requested the following changes: Defer Item 3.B.3. Adoption of Order FH-14-02 proposed fishing regulation change on Escanaba Lake; Item 3.B.5. Adoption of Order FH-39-02 – revision of Chapter NR 328, Subchapter I, Wis. Adm. Code, pertaining to standards for shore erosion control in lakes and impoundments; Item 3.B.6. Recreational Trails (six) land acquisitions-various counties; Item 3.B.14. Statewide Natural Area land acquisition-Door County; Item 3.B.19. Statewide Habitat Area land acquisition-Sauk County; Item 4.D. Land transaction/project establishment negotiations with the federal government, the Ho-Chunk Nation, and the State of Wisconsin for land in Sauk and Jackson Counties; and add 3.B.18. Adoption of Emergency Order FH-47-02(E) – revision of Chapter NR 25.06, Wis. Adm. Code, pertaining to Lake Superior commercial fishing trout quota. With those changes, Mr. O'Brien MOVED, seconded by Mr. Tiefenthaler, approval of the agenda for October 23, 2002, as amended. The motion was carried unanimously by those members present. Ms. Stepp was absent.

2. Ratification of acts of the Department Secretary.
- 2.A. Real estate transactions.

Mr. Willett MOVED, seconded by Mr. O'Brien, approval of the real estate transactions, as printed. The motion was carried unanimously by those members present. Ms. Stepp was absent.

3. Operating Committees.3.A. Air, Waste and Water/Enforcement Committee.

3.A.1. Minutes. There were no Committee minutes for September 2002 since all agenda items were taken up during the Full Board Meeting.

3.A.2. Adoption of Order LE-40-02 - revision of Chapters NR 50.12, NR 50.13 and NR 64.15, Wis. Adm. Code, pertaining to boat, snowmobile, and ATV enforcement patrol programs.

John Lacenski, Boating Law Administrator, presented the municipal boat patrol portion of the rule. The proposed rule would make several changes: establish a separate minimum ratio of on-water patrol hours per arrest for patrols that operate on outlying waters or on lakes of over 100,000 acres to reflect their additional personnel costs; add patrols that operate on lakes of over 100,000 acres to those patrols that are authorized to staff their patrol boats with three officers. The proposed changes are necessary to provide participating patrols the necessary allowances to continue to work within Department grants programs. Mr. Lacenski reviewed the public hearings.

Discussion pursued the 22 hours minimum standard, patrol time per arrest, and arrest standards set.

Karl Brooks, Snowmobile/ATV Administrator, presented the portion of the rule relating to the ATV and snowmobile program. He stated the rule is requesting: changes of ATV grant submission deadlines; changes of ATV fund disbursement dates; eliminating requirements to send three sets of claim forms to snowmobile, boat, and ATV patrols; increasing the ATV patrol equipment reimbursement allowance to \$1,000; and amend the ATV and snowmobile patrol reimbursement formula used during auditing procedures. Specific change of the requested removal of the wording, 10 percent of funds available and at no time may any patrol receive more than 20 percent of funds available.

Citizen participation on this issue:

3.A.2.1. **Mark Heil**, of Neillsville, as the President representing Wisconsin Counties Forests Association (WCFA). Mr. Heil stated that on behalf of the WCFA, in general, the membership supports the revisions as currently amended. They appreciate having had the opportunity to provide input that has contributed to the revisions. Specific comments were included for the revision of NR 50.12(3)(3)(3) and NR 64.15(3)(g)(3), by removal of the 10% cap on claims. Wisconsin County Forest Programs have been and continue to be strong partners with the State of Wisconsin for providing natural resource management and related recreation amenities for the people of Wisconsin and beyond. The Wisconsin ATV trail system relies to a great extent on the availability of county forest lands. In the interest of continuing to provide and maintain quality ATV riding opportunities WCFA does request the Board's support of other initiatives to be considered in the near future. He stated these opportunities include ATV non-resident trail pass, increased appropriation for county ATV enforcement, increased appropriation for the maintenance of existing ATV trails, and implementation of a state registration system for off-road motorcycles. WCFA membership does support the current proposed rule revision as one step that will help to allow the continued existence of ATVs on public lands.

Mr. Willett MOVED, seconded by Mr. Tiefenthaler, adoption of Order LE-40-02 - revision of Chapters NR 50.12, NR 50.13 and NR 64.15, Wis. Adm. Code, pertaining to boat, snowmobile, and ATV enforcement patrol programs, as presented. The order was carried unanimously by those members present. Ms. Stepp was absent.

3.A.3. Authorization for hearing on revision of Chapters NR 140 and NR 811, Wis. Adm. Code, pertaining to requirements for the operation and design of community water systems.

Michael Lemcke, Groundwater Management Section Chief, presented the authorization for hearing on revision of Chapters NR 140 and NR 811, pertaining to requirements for the operation and design of

community water systems. NR 140 establishes Wisconsin state groundwater quality standards and points of compliance for those standards. Chapter NR 811 includes design and management criteria for aquifer storage and recovery systems, adopted by the Natural Resources Board in August, 2002. Mr. Lemcke noted the history of NR 140. Amendments are proposed to Chapter NR 140 to incorporate the chloroform, bromodichloromethane, dibromochloromethane, and bromoform points of standards applications for aquifer storage and recovery wells established under s. 160.257, Stats., and to establish an aquifer storage recover system design management zone at the same distance from an ASR well as the system displacement zone allowed under NR 811. Design management zones are established around facilities, practices, and activities regulated by the department, for facility design, and as a boundary for compliance with state groundwater quality standards. Amendments are proposed to NR 811 to allow an ASR system displacement zone to extend to a maximum distance of 1,200 feet from an ASR well. Allowing an ASR system displacement zone to extend to 1,200 feet conforms with the provisions of s.160.257, Stats., and also limits any adverse groundwater impacts from the operation of an ASR system to this distance.

Mr. Willett MOVED, seconded by Mr. Tiefenthaler authorization for hearing on revision of Chapters NR 140 and NR 811, Wis. Adm. Code, pertaining to requirements for the operation and design of community water systems. The motion was carried unanimously by those members. Ms. Stepp was absent.

3.B. Land, Management Recreation and Fisheries/Wildlife Committee.

3.B.1. Minutes. There were no Committee minutes for September 2002 since all agenda items were taken up during the Full Board Meeting.

3.B.2. Approval of the Rush Creek State Natural Area Feasibility Study.

Mike Ries, Landscape Architect, presented the approval of the Rush Creek State Natural Area Feasibility Study. This study evaluates the feasibility of expanding Rush Creek State Natural Area located in Freeman Township, Crawford County. The natural area presently encompasses 1,815 acres. The proposal would be to preserve an additional 5,975 acres within the 9,030-acre study area. With a map, Mr. Ries pointed out these areas. The total Rush Creek State Natural Area project goal would be 7,790 acres. The proposal's primary intent would be to protect and manage prairie, savanna, oak forest, and associated plant and animal species as well as geological and archaeological sites of statewide significance. Over 450 stakeholders, including all property owners within the study area, have been contacted and asked for their opinions regarding the proposed natural area expansion. Over fifty comments were received from the public subsequent to the open house meeting, newspaper articles, and distribution of two study fact sheets. During the WEPA review period for the study an additional 22 comments were received. A majority of the public comments were in favor of the proposal. The concerns that were raised centered on the Department's acquisition authority and what, if any, impact the proposal would have on the use of private lands. Only a few property owners indicated they were not interested in supporting the proposal and were not interested in selling their land to the state if the expanded natural area boundary proposal were approved.

Mr. Tiefenthaler asked why they weren't going to the railroad tracks with the boundary rather than Highway 35. He requested to have this investigated, to go to the railroad tracks.

Discussion pursued regarding the railroad track boundary, the present amount of the land, and use of this land, and how it is being preserved.

Mr. Behnke MOVED, seconded by Mr. Tiefenthaler approval of the Rush Creek State Natural Area Feasibility Study. The motion was carried unanimously by those members present. Ms. Stepp was absent.

- 3.B.3. Adoption of Order FH-14-02 proposed fishing regulation change on Escanaba Lake.

This item was deferred to a future meeting.

- 3.B.4. Adoption of Order FH-10-02 – revision of Chapter NR 25, Wis. Adm. Code pertaining to commercial fishing outlying waters.

Susan Sylvester, Division of Water Administrator, presented the adoption of Order FH-10-02 – revision of Chapter NR 25, pertaining to commercial fishing outlying waters. Order FH-10-02 establishes new lake trout harvest limits as agreed to by the Department, the Red Cliff, and Bad River Bands of Lake Superior Chippewa Indians in amendments to the 1995 State-Tribal Lake Superior Agreement. It also includes three substantive changes: 1) It establishes the new lake trout harvest limits agreed to by the Department and the tribes. The harvest limit for each individual state-licensed commercial fisher will increase from 714 lake trout to 886 lake trout. 2) It requires that lake herring gill nets be set at least 12-feet beneath the surface. 3) It requires that all floats or all leads on gill nets set by state licensed commercial fishers in Wisconsin waters of Lake Superior be marked with the commercial fisher's license number.

Mr. Behnke MOVED, seconded by Mr. Tiefenthaler, adoption of Order FH-10-02- revision of Chapter NR 25, Wis. Adm. Code pertaining to commercial fishing outlying waters, as presented. The order was carried unanimously by those members present. Ms. Stepp was absent.

- 3.B.5. Adoption of Order FH-39-02 – revision of Chapter NR 328, Subchapter I, Wis. Adm. Code, pertaining to standards for shore erosion control in lakes and impoundments.

This item was deferred to a future meeting.

Richard Steffes, Real Estate Director, presented the following land transactions:

- 3.B.6. Recreational Trails (six) land acquisitions – various counties.

This item was deferred to a future meeting.

Citizen Participation on this item:

Dave Peterson, Plover, representing Langlade County Snowmobile Clubs, was scheduled to speak but was canceled because this item was deferred.

- 3.B.7. South Shore of Lake Superior Fish and Wildlife land acquisition – Bayfield County.

Mr. Tiefenthaler MOVED, seconded by Mr. Willett, that the Board approve the purchase of 46.46 acres from Rosemary Haywood for \$44,000 for the South Shore of Lake Superior Fish and Wildlife Area and approve modification of the project boundary to include the parcel in Bayfield County, as presented. The motion was carried unanimously by those members present. Ms. Stepp was absent.

- 3.B.8. Lower Wisconsin State Riverway land acquisition – Iowa County.

Mr. Willett MOVED, seconded by Mr. O'Brien, that the Board approve the purchase of 165.45 acres from Carl Thiede for \$315,000 for the Lower Wisconsin State Riverway in Iowa County, as presented. The motion was carried unanimously by those members present. Ms. Stepp was absent.

- 3.B.9. Lima Marsh Wildlife Area land acquisition – Rock County.

Discussion pursued regarding cropland, wetland versus agricultural lands, boundaries, value of this property, deed restrictions, and if this is or was a project.

Mr. Tiefenthaler MOVED, there was no second that the Board approve the purchase of 190 acres from Rodney Smith for \$427,500 for the Lima Marsh Wildlife Area and the property boundary modification to include 30 acres of the Smith parcel that currently lies outside the project boundary in Rock County, as presented. The motion failed by a vote of five to one those members present. Ms. Stepp was absent.

3.B.10. Killsnake Wildlife Area land acquisition – Calumet County.

Mr. Behnke MOVED, seconded by Mr. Willett, that the Board approve the purchase of 110 acres from Ronald Schmidt for \$163,500 for the Killsnake Wildlife Area in Calumet County, as presented. The motion was carried unanimously by those members present. Ms. Stepp was absent.

3.B.11. Quincy Bluff and Wetlands Natural Area land acquisition – Adams County.

Mr. O'Brien MOVED, seconded by Mr. Behnke, that the Board approve the purchase of 200 acres from Stora Enso North America for \$260,000 for the Quincy Bluff and Wetlands Natural Area in Adams County, as presented. The motion was carried unanimously by those members present. Ms. Stepp was absent.

3.B.12. Statewide New Hatcheries land acquisition – Sheboygan County.

With a map, Mr. Steffes pointed out the area of the North Branch Project, New Kettle Marine Hatchery, and explained the area.

Mr. Behnke MOVED, seconded by Mr. Willett, that the Board approve the purchase of 38.7 acres from Scott and Linda Chesak for \$159,000 for the Statewide New Hatcheries in Sheboygan County, as presented. The motion was carried unanimously by those members present. Ms. Stepp was absent.

3.B.13. Baraboo Hills State Recreation Area land acquisition – Columbia County.

Mr. Willett MOVED, seconded by Mr. Poulson, that the Board approve the easement of 267.38 acres from Hayden Mac Leish for \$280,000 for the Baraboo Hills State Recreation Area and accept the donation of \$47,540 in land value in Columbia County, as presented.

Mr. Poulson stated that it was his understanding for the agricultural community, within the new farm bill, there will be dollars available to do more of this type of effort. He didn't know to what extent the Department would begin to map some of that money but the farm land trust and some of the various other county trusts. The Department might want to begin to look at some of that effort and look at how we could use those dollars in some way that would be more attractive to the agricultural community than in the past. **Secretary Bazzell** responded that the Department is very much interested in this as well as a number of producers in the farm bill that are very active in our state, and that USDA is still going through a process in planning of how those dollars will be made available.

The motion was carried unanimously by those members present. Ms. Stepp was absent.

3.B.14. Statewide Natural Area land acquisition – Door County.

This item was deferred to a future meeting.

3.B.15. Western Prairie Habitat land acquisition and donation – St. Croix County.

Mr. Behnke MOVED that the Board approve the purchase of 57.78 acres of land from Kinnickinnic Chapter of Pheasants Forever, Incorporated for \$54,400 for the Western Prairie Habitat Restoration

Area and accept the donation of \$54,600 in land value in St. Croix County, Mr. Tiefenthaler seconded the motion. The motion was carried unanimously by those members present. Ms. Stepp was absent.

3.B.16. Mead Wildlife Area land acquisition and donation – Portage County.

Mr. Behnke MOVED that the Board approve the purchase of 627.87 acres of land from Stora Enso North America for \$504,800 for the Mead Wildlife Area and accept a donation of \$250,000 from the Mead Witter Foundation, Incorporated to be used toward this transaction in Portage County, Mr. O'Brien seconded the motion. The motion was carried unanimously by those members present. Ms. Stepp was absent.

3.B.17. Little Wolf River State Natural Area land donation – Waupaca County.

Mr. Steffes presented a picture of the Little Wolf River State Natural Area and described it.

Mr. Willett MOVED, seconded by Mr. Tiefenthaler that the Board approve the land donation of 161 acres in Waupaca County from Jerry and Jill Martin for the Little Wolf River State Natural Area. The motion was carried unanimously by those members present. Ms. Stepp was absent.

3.B.18. Adoption of Emergency Order FH-47-02(E) – revision of Chapter NR 25.06, Wis. Adm. Code, pertaining to Lake Superior commercial fishing trout quota.

Susan Sylvester, Division of Water Administrator, presented the adoption of Emergency Order FH-47-02(E) – revision of Chapter NR 25.06, Wis. Adm. Code, pertaining to Lake Superior commercial fishing trout quota. Emergency Order FH-47-02(E) establishes new lake trout harvest limits as agreed to by the Department, the Red Cliff, and Bad River Bands of Lake Superior Chippewa Indians in amendments to the 1995 State-Tribal Lake Superior Agreement. The effect of this order will be to increase the lake trout annual harvest limit for each state licensed angler from 714 to 886. It is identical to portions of Order FH-10-02.

Mr. Behnke MOVED, seconded by Mr. Tiefenthaler, adoption of Order FH-47-02(E) – revision of Chapter NR 25.06, Wis. Adm. Code, pertaining to Lake Superior commercial fishing trout quota, as presented. The order was carried unanimously by those members present. Ms. Stepp was absent.

3.B.19. Statewide Habitat Area land acquisition – Sauk County.

This item was deferred to a future meeting.

4. Committee of the Whole.

Chairman Solberg recognized Ms. Mary Willett, the Governor's Northern Representative, in attendance at the meeting. Chairman Solberg thanked her for coming.

4.A. Citizen Participation.

4.A.1. **Corky Meyer**, Kewaskum, representing Wisconsin Wildlife Federation, spoke on the Captive Wildlife rule making process. Mr. Meyer wanted to share input of the rules process. Mr. Meyer stated that the Captive Wildlife Law was passed and goes into effect January 1, 2003. He stated that at the time the bill was passed they expected they would have the opportunity to have input into the rules process. This spring the Federation started working with a group called the Bear and Cougar Committee. In this group they tried to change some of the standards for bear, cougar, and coyote. After the bill was passed there have been any

meetings. Mr. Meyer reviewed the Federation meetings and what they accomplished. He stated that The Captive Wildlife Legislation has been worked on for over 15 years and they feel that short cutting by not having public input is wrong. They do not feel that delaying the implementation of the rules in order to allow true public input would hamper anything at this time. The word from the Department, per Mr. Meyer, is that the Department has been too busy with chronic wasting disease issues to put time into this rule development process. The Wisconsin wildlife Federation does understand how much time the Department is putting in with the chronic wasting disease issue and they applaud that effort. But, they also feel that the number of years that have been put into Captive Wildlife and the new legislation is also extremely important and has much to do with chronic wasting disease. Mr. Meyer expressed his frustration of no meetings being held by the Department.

Mr. Behnke agreed that the public needs to be involved in this issue. We have, 15 years now, tried to get a Captive Wildlife Program established through the legislature. Finally, it got to the point that the legislature adopted a Captive Wildlife Law and the requirement of the Department is to establish administrative rules to implement this law. Mr. Behnke stated that he also felt that after 20 years, he was not sure that they need to start immediately on January 1, 2003 to administer this new rule, until they have the administrative procedures properly established. He further stated that it has been a long standing rule of this Board, as suggested by Mr. Willett, that the public be involved in development of administrative rules and especially the interested affected party. He agreed that they should not be thinking of, unless the Secretary can give him a good reason, why they need to have an emergency rule in December. Mr. Behnke further stated that he didn't see any reason not to delay implementing this new law until they have had the proper input from the public, the proper dialog from the public and interested groups because there are a number of factions that apply. Each faction has their particular interest and they need to be listened to and be a part of what the final rule.

Steve Miller, Division of Land Administrator, responded. There is a practical issue regarding the staff that have been working on the Captive Wildlife, Sarah Hurley and Tom Solin, who have been pulled off this issue to work on chronic wasting disease. Particularly Mr. Solin who has been working on the investigation of the game farms. Mike Lutz, Attorney, is working on this right now. There was a letter sent out to 600 people that have been involved in this process asking if they want to be involved in a committee type structure with this issue. About 80 people replied. Those committees have been set up. I thought there was going to be a meeting of your committees but hearing what was said here maybe there isn't. There are two public meetings on November 4 and November 12 in Wausau and Madison to gain some input from these folks who have already been contacted, as well as the public, on the development of the emergency rule. The process was that they wanted to bring emergency rules to the Board in December, having to go into affect January 1, 2003, with the new law and work with those emergency rules until we can come back with permanent rule proposals in June. It is possible, if we delayed for about six months and came back with the permanent rule proposal in June. We do have a process set up, I think that the decision now is working with the Secretary whether we come back in December or January to propose emergency rules or perhaps embark on a more delayed process.

Mr. Willett responded that he agreed with Mr. Behnke. He stated that he didn't really see the need for an emergency rule and this area has had so much public input during the past years. He further stated that the process is as much having the citizens buy into what the product is as is coming up with the rule. **Mr. Behnke** suggested they go through the normal process, if it takes a little longer, then they have gone 21 years instead of 20, before they have a Captive Wildlife Law. He stated that he believed that they should not be thinking about emergency rules at this time if the public has not had the opportunity to fully participate in this process. **Mr. Tiefenthaler** agreed. He stated that if there is an emergency that Tom Solin is concerned about such as chronic wasting disease for captive game farms for inspections, that would probably constitute a real emergency for him. Mr. Tiefenthaler highly suggested that the Department dissect those sections of the Captive Wildlife Law to bring to the Board in December and the rest of the process should go through the normal input with the public. **Mr. Miller** stated they could do that. He will

speaking with Tom Solin and assess what indeed they need to happen, emergency versus what can be delayed. Mr. Miller stated that he appreciated what the Board suggested and he felt that it is right. He stated that he would give a communication back to the Board in assessing this issue. **Mr. Behnke**, we now have the enabling legislation and it is up to us to administer it and draw up the rules to administer this legislation. It has been a long time in coming, we were ready for this long before the legislature was. Lets do it right, lets get the public involved. I agree with Mr. Tiefenthaler, if we can get a specific part of it that needs to be implemented under emergency order lets take that on but not an entire umbrella for the Captive Wildlife Law. **Mr. Meyer** responded that he was sure that the Federation in a case like that would be happy that and work with the Department.

- 4.A.2. **Jim Olson**, Eau Claire, representing the Chippewa Valley Sierra Club, welcoming the Department of Natural Resources and the Natural Resources Board Members. Mr. Olson thanked the Department and the Board for the many things they have done to enhance the quality of life in the Chippewa Valley, particularly the trails, natural areas, state parks, wildlife areas, state forests, and the Lower Chippewa River Natural Area. He expanded on specific areas that the Board assisted with, such as non-point issues and the phosphorus rules. Mr. Olson spoke of timber wolf management issues and the several packs that they have in the Chippewa Valley area, appearing to be well behaved. He further stated they support the way the Department and the Board are doing to meet the challenge of chronic wasting disease. In testing the deer harvest in his area they are particularly concerned that the sampling will be done in the zones, the heavy t-zones, particularly those down toward the Mississippi to include some samples from leased hunting lands as well as public lands in the area. In talking to hunting groups, he stated they are concerned about the lack of scarcity of public hunting lands and the growing tendency to lease land in the area, which they feel is one of the factors which has brought about some of the heavy density in that area. He didn't know if that were possible to do but hoped that the Department could examine that issue and see if that were part of the problem. Mr. Olson expressed that he hoped the Board would return to the valley and again thanked the Board and Department for what they have done.

Secretary Bazzell stated that he appreciated Mr. Olson's comments. With regard to chronic wasting disease testing, the Department's goal is to test about 500 deer per county and they want to make sure that there is a representative sampling across these counties so they can draw good conclusions based upon this. He stated that he agreed with Mr. Olson that not only in Chippewa County, but it may be a challenge in some of these counties given the unavailability of private hunting land for testing. He stated they are not going to draw any conclusions with the counties until they can get onto some of those lands and they can really know for sure they have a good representation of samples to draw a good strong scientific conclusion. **Mr. Olson** responded, they are particularly concerned with Zone 61 down along the river, not so much throughout Chippewa County. Down along the Mississippi River where there is a long string of them that are t-zone and above density levels.

- 4.A.3. **Mary Popple**, Chippewa Falls, representing the Wisconsin Bird and Game Breeders Association, speaking on the Captive Wildlife Bill. Ms. Popple stated that one of the biggest concerns her membership has is that when the Captive Wildlife Bill was being drafted that they were going to be giving a blank check to the Department of Natural Resources for the authority to make these rules and regulations. And, that the Association wasn't going to be involved in being a part of the Natural Resources Code. That is part of the reason that the Association objected to this all of the years they worked on it. She expressed concerns with the scheduled November meeting and her Association having time to prepare for it. She stated they are concerned they will be rushed through this process. The rules are going to affect them a lot and they want to be able to do a good job, and not rush through the process.
- 4.A.4. **Andy Lisak**, Superior, as Executive Director representing the Development Association, speaking on air quality emissions and the Murphy permit. Mr. Lisak read a Resolution in its entirety passed by the Douglas County Board in regard to Murphy Oil. The Douglas County Board of Supervisor's Resolution supported the Wisconsin Department of Natural Resources permit that reduces sulfur emissions over six times and allows for start ups, shut downs, and malfunctions. A copy of the Resolution was sent to

Governor McCallum, Senator Jauch, Representative Boyle, the Wisconsin Department of Natural Resources Board, and the Department of Natural Resources Secretary, dated October 17, 2002. Mr. Lisak stated that over the past year Murphy Oil has been in discussion with the Department regarding a permit to install a sulfur reduction unit. Mr. Lisak stated their Association is asking of the Department of Natural Resources to issue a permit that allows and takes into consideration the events that will happen during start up, shut down, and malfunction. He stated their Association is asking the Department to go to bat for Murphy in discussion with the EPA, or for the Department and Murphy together, get approval from the EPA.

Mr. Willett responded, that it was his understanding there was a consent decree entered into between Murphy and the EPA. This issue was negotiated there and the EPA would not consent. Now Murphy is asking the Department to put this wording in, my understanding is that the Department's position is they would do it if they would get permission from EPA, and they are seeking permission from the EPA. Our concern, as the Board, is that if the EPA doesn't grant that and Murphy decides to leave Superior, it would be devastating for Superior and Douglas County. My point is that you should be assured that we don't want to be responsible for anything such as this. This Board has worked with the Secretary's Department for the Secretary to try and convince the EPA, I know that the Secretary is seeking some guidance from EPA in this area. Is it your request, Mr. Lisak, that we would issue that permit if the EPA did not grant us that right? **Mr. Lisak** responded, my understanding from what I know in regards to this, that permits like this have been issued before. I think what we are looking for is either more leadership, more aggressiveness with the EPA if it is an EPA issue. **Mr. Willett** responded, our position in this particular matter is that of the implementing agency and the reason that we have taken on that responsibility is because we recognize that we think there should be individual care taken to the individual situations and we have a better relationship with our citizens than EPA does. We are in it to insure, obviously, that the Clean Air Act is implemented to protect all of the citizens of the State of Wisconsin but also to insure that Murphy Oil has a fair playing field and has a fair opportunity to do business.

Secretary Bazzell responded, the Department, in my opinion and my experience in the last year, has gone out of its way to try and accommodate Murphy Oil. Not just myself but the Deputy Secretary, the Regional Director, and the Head of our Air and Waste Division have individually and collectively worked on this issue. Not just an issue left to staff. You are exactly right that the clerks decided a year ago that this issue could not be resolved with a consent decree. Murphy decided they would make an attempt to deal with these issues through the subsequent permit process. We have told Murphy, going back almost a year, what they needed to do to have these issues, in fact, addressed in a permit consisting with how every other refinery across this country have been treated. Mr. Lisak is right that there are two other examples in the state where start up and shut down additional limits are contained within a permit. Those permits do not address malfunction. There is no permit that addresses malfunctions. That would be a precedent. With respect to the start up shut down, in those two situations those companies went through a process called a best available control technology analysis, basically indicating what control technology would need to be put into place to allow for those additional emissions. Murphy Oil has not gone through that process, even though they have been asked to on a number of occasions. That is the legal process for getting those kinds of start up shut down limits in a permit. They have given us some information on a couple of occasions but they have not given us complete information to review the analysis. That is exactly how it is done across the entire country. Murphy at this time is asking for us to include those kinds of limits for start up shut down without doing that complete analysis. That isn't legal. While in my discussions with EPA attempting to resolve this issue I have talked with Region Five as recently as a couple of days ago and they made it very clear that they are willing to consider those kinds of limits for unforeseen circumstances, such as a power outage. But what Murphy has to do is to identify what those scenarios are and conduct the best available control technology analysis like every other refinery in this country. To date, Murphy has not chosen to do that.

Mr. Willett asked if it were possible without doing a resolution to insure Superior that this Board shares their concerns and that the Board will work with the Department and encourage the Department to have their patience in working with Murphy to get this done. **Secretary Bazzell**, I would ask the Board not to

do that. The Board, I would argue their role is in policy making not getting involved with individual permit decisions. Although I certainly respect the concern that you have and all of us share in terms of getting this issue dealt with. We are in the process of setting up meetings with Murphy, Region Five, as well as enforcement staff, and EPA in Washington. So there is a pathway to provide once and for all clarity with respect to how this process is going to work. We are going to extend the public comment period to make sure that these discussions occur and each one has a chance to respond before that public comment period fully closes out. I would have reservations if the Board is interested in taking on a specific permit.

- 4.A.5. **Frank Giesen**, Solon Springs, as President of the Board representing the Development Association, speaking on air quality emissions and the Murphy permit. Mr. Giesen was scheduled to speak but did not appear.
- 4.A.6. **Doug Finn**, Superior, as County Board Chair representing the Superior County Board, speaking on quality emissions and the Murphy permit. Mr. Finn was scheduled to speak but did not appear.
- 4.A.7. **Todd Keute**, Superior, as President of the Chamber of Commerce, speaking on quality emissions and the Murphy permit. Mr. Keute was scheduled to speak but withdrew his presentation because his questions had been addressed during the meeting.

Chairman Solberg called upon Senator Robert Jauch to speak.

Senator Jauch, stated that it was an honor to appear before the Board and he was grateful for the opportunity. He complimented the Board for the hours and dedication they put into their job in meeting the many diverse responsibilities of the Department of Natural Resources. He reflected on the past 20 years of his service and working with the Department of Natural Resources. He further stated that he was present today not in a confrontational but rather in a cooperative position. With regard to Murphy Oil, he stated that Secretary Bazzell has been forthright, helpful, has kept his word to the company, to him, to the community, and he appreciated that. Senator Jauch further stated that he had great admiration for William Smith and the staff for the job that they have done regarding Murphy Oil. He gave examples of two issues that the DNR had been working with, Shell Lake and a controversial wetland issue in Superior.

Senator Jauch stated that he was attending today's meeting in general to advocate on behalf of the community, to the DNR Board, and the DNR staff to be vigorous advocates on behalf of Murphy Oil in achieving a reasonable, responsible, definable permit, that allows that company to function in a real world environment. Specifically, the company must have some allowances for start up, shut down, and malfunction. Or start up and shut down in instances especially when they occur out of their control. He then gave examples of paper mills in Wisconsin that have special permits. Senator Jauch read as section of a permit that a paper mill holds. He stated it is an example of how the Department did issue an alternate permit for start ups, shut downs, and malfunctions. He further stated there must be some real world limits, understandable limits established in any kind of permit so that the company is not set up to fail. He spoke of the company's investments and their production. Senator Jauch stated that he told the company from the beginning that he would never advocate on behalf of any company that was simply trying to bypass the regulatory environment, and be excused from meeting their responsibilities. He stated that he trusts the executives of Murphy Oil, who have talked with him, that community, to the Secretary, and staff. He stated the company is not trying to get around the rules they are trying to understand the rules so that we can live by the rules. The community is deeply concerned about this issue. He stated that he was here more on behalf of the community than for the company. On behalf of the 250 people who appeared at the hearing, the 150 jobs that are so important to that community, the families that are so concerned about their well being and their future.

Senator Jauch further spoke of Murphy having had outages that were outside their control of the past. He spoke of Murphy building their own redundant system and their production. He stated that it seemed only fitting that DNR advocate and insist on a reasonable set of rules for other kinds of situations when they have to shut down and start

up when it is outside of their control. The only time they are going to really shut down within their control is during maintenance, which they do about every three or four years when they shut the entire plant down.

He spoke of the politics about the Department of Natural Resources and the EPA. He stated they need leadership from the Department of Natural Resources, much as Secretary Bazzell has committed to him in his office. Leadership that sets reasonable limits, that provides some leadership to EPA, and demonstrates a cooperative stance with the company. In what our Department of Natural Resources feel is a responsible, fair permit for the company that protects the environment and protects the community and the jobs. He further stated that it was his understanding, from the conversations that Secretary Bazzell, that there is a willingness by the EPA to recognize circumstances. Circumstances in which the company would be able to be issued some kind of alternate permit or alternate emission limit for the kinds of things that we are looking for. He stated this company is not interested in trying to exceed anything, they want to live within it, they want to understand it.

Senator Jauch spoke of the importance of this company to the community, their cleaning up of the operation, investing in air and water quality systems that substantially reduce pollution. They have become the model for corporate citizenship and they have spent hours in discussion with this Secretary and the previous Secretary in an effort to build a good relationship with the staff with a responsibility to enforce the laws. He stated that the company is not threatening to leave. They have said that if they don't have a defined regulatory environment, that it is going to be almost impossible for them to get their Board of Directors in Arkansas to invest any more money in a plant, a small refinery operation, when they have to make millions of dollars in investments to comply with new federal air quality standards to refine this. He further stated that Secretary Bazzell has been strong and they need to have that continued strong leadership.

Secretary Bazzell responded, let me just respond to several points here and I do appreciate the Senators' testimony. I have found your participation very constructive and simply gear toward clarifying a reasonable solution that is going to benefit on the environment, but obviously given the importance of having Murphy Oil in Superior. We all recognize the value that it brings to the community.

To touch on a couple of points that were made, in fact, just to provide perhaps a little more clarification to some of the points. The example regarding the paper mill, on the information that you did provide to me a couple of weeks ago, we have taken a look at that permit. You are correct it does have language in there that speaks to a higher limit but there are two important points to make in respect to that. Number one, that permit does not in fact establish an alternate limit so there are no higher limits actually in the permit. Secondly, it in no way weighs enforcement discretion on the part of the state or the federal government. So, what you have is language that acknowledges that from time to time the company is going to exceed its limits but it doesn't allow them to actually exceed them. In terms of our history with working with Murphy Oil, Senator, I think they have, in fact, had to shut down four times over the past year. In fact, they have shut down 20 times over the last five years and through my discussion with the EPA they find that highly unusual. But, I can tell you that in the years, in fact I think we have had about a nine or ten year history where there have been many malfunction shut downs. In no instance, over that period, has the Department ever taken enforcement action. So I think our track record speaks for itself in that regard. There were many situations where we have gone and asked the company why did you malfunction, was it something that you couldn't prevent, was it human error. The company had never given us the information in terms of why they malfunctioned. Not having that information as we are told to have as a regulator, we have chosen not to enforce. So, I think the track record is pretty strong in terms of how we have exercised our discretion.

With regard to the question of a level playing field, I think that is a point that Murphy has made time and time again. I think you alluded to it in your closing comments here. That they wanted to be treated fairly, as others are. Again, every other refinery, that we are aware of, has been involved in this process that we have talked about the other day, best available control technology analysis. Again, Murphy has been advised to do that for a year now. To date Murphy has chosen not to do that. In fact, in my discussion with them personally and I know that Mr. William Smith and others have had discussions, they have chosen to challenge and say that is not the correct interpretation of

the Federal Clean Air Act although every other refinery across the country has lived by those rules for 20 years now. But, again, I suspect the reason why they chose not to submit this information, as you know from our discussions with EPA on Monday, they are saying yes there is a pathway to have alternative limits again for unforeseen and uncontrollable circumstances consistent with the Clean Air Act. But again, what the company has to choose to do is to identify those kinds of scenarios and to conduct that analysis. To date they have chosen not to do that. I want to be clear that EPA is also saying that the things that are controllable, they are not going to allow an alternative limit.

The last point that I would like to make and it has to do again with the time in what we are operating under, Murphy would like to see a permit issued in January, we would love to see a permit issued in January as well. That is why, in fact, based upon their advice, in fact Herb Fox personally said Darrell go ahead and get that draft permit out. We know we are going to have to work and fill the tracks, we want to be on the January time line, we know that the permit that you are going to issue in draft form is not what we really want. In fact, we asked Murphy again what their version of what they think the permit should look like and we would take that to EPA, we have done that. That is the nature of some of the ongoing discussion. I have talked with some of our legal staff, our air staff, and what they tell me is that what Murphy is required to do under the consent decree is not, in fact, have the permit issued by January but they are required to be in compliance with their emissions limits. Now, what that means from a practical standpoint is if they do not have that permit issued by January, they cannot increase their production. So, they can continue to operate at their current level of production in January without that permit but clearly they cannot increase their production. That is one of the fine points. I think we still all want to work toward having a January time frame. Again, given discussions that we are having and given the discussions that you have had, Senator, and I have had with EPA, I think that we can probably still stick with that time frame.

Senator Jauch, let me briefly respond and certainly not at all argumentatively. I understand the company has submitted the BACT analysis on September 7. **Secretary Bazzell**, it is not complete. **Senator Jauch**, I think we should identify what you need and if you need more, we will communicate that to Murphy. Why don't you let them know in writing what you need and that way it can get going. **Secretary Bazzell**, again, I will indicate that that has been done on a number of occasions. They are at a point in time saying that they don't agree that they need to do this. That is where the discussion stands right now.

Senator Jauch, responded that he would encourage Murphy Oil to submit everything that they have been asked. He stated that if there is something that the Department has regarding correspondence, he has not seen that. He then responded to the first permit he spoke of previously and stated that he was sure that this wording was put in for a reason. He thought because it gave that company some comfort that they were not going to be sued if they have language in the permit, that says that they understand in the real world that you are going to have a situation where you have to shut down and start up. He inquired as to why that same language couldn't be included for others if it is included for this particular paper mill. He stated that Murphy can't just operate this facility not knowing what EPA is going to do, he gave an example why.

He stated, they had a January deadline. They cannot tie the hands of any company, especially when there is a fairly simple solution. Secretary Bazzell commented that in their conversations with EPA they have had, if I recall, the terms were unavoidable and avoidable. He further stated that to him avoidable would probably mean human error at the plant, unavoidable would be the power company shutting you down. Senator Jauch stated that common sense tells him that they can come up with something that achieves a solution to this. That allows this company to turn on in January so they are not only technically in compliance but are in full compliance and they can operate as a corporation in a productive capacity. They can't keep that plant operating if it is not operating at its capacity. This is one of the two smallest refineries in the country and there is no justification to make life tougher on them as long as they are living well within the air and water quality standards and they are and they want to be.

Mr. Tiefenthaler responded, the one key issue that I would like the Secretary to comment on and that is oversight by DNR rather than EPA on this. He asked if this out of the ordinary, if this is normal or abnormal around other states. **Secretary Bazzell** answered, we have a delegated program where one would think that it is our job and it is

well within our authority to establish permits and then to enforce them consistent with state and federal law. That is, in fact, the case here. I think there are two important points to make. We just came out of a major federal court case where Murphy has been ordered to make significant improvements and to come within air quality standards. So there is a lot of interest on the part of not just EPA but with the US Justice Department, which handled the court case. So they are watching very closely how this consent decree is, in fact, implemented. The other reason we have some concern there is a recent court case, and you have these materials that I shared with you, in the State of Alaska. In this case, EPA chose to challenge the validity of that permit because they want to see the different type of control equipment applied. The state didn't think the EPA had the authority because it was a delegated program but the case has already been through a circuit court system and have ruled in favor with EPA. That EPA does have authority to step in on an individual permit basis and call the shots.

Senator Jauch stated that from his conversation with EPA, he sensed their desire to have a strong role. He also sensed that when they heard the company, they heard some of the facts, they received some clarification of some misunderstanding they began to feel a bit more comfortable that the company wasn't just trying to find a way to avoid their responsibility. He stated that he was discouraged that EPA would decide that they are going to strictly oversee a delegated state. He further stated that he would take Wisconsin's record protecting our air and water over most any other state in the nation. They are holding some of the power. If they hold the power and resist to the point where they are being unreasonable, he wants the Department of Natural Resources to say they are going to advocate on behalf of something that is reasonable and responsible. In conclusion, Senator Jauch stated that Murphy Oil wants to be reasonable, have reasonable limitations, and he expects there is a responsible solution. Senator Jauch thanked the Board for letting him speak and stated that Secretary Bazzell and his staff are doing the right thing.

4.B. INFORMATIONAL ITEM - Chronic Wasting Disease Update.

Tom Hauge, Wildlife Management Bureau Director, presented an update on Chronic Wasting Disease. Mr. Hauge reviewed the hunting seasons in specific zones. He stated that the Department has received contemporary scientific support from the University of Wisconsin Madison. They are following in the footsteps of well know biologists that management of the disease.

Mr. Hauge presented a map showing the current status of positive animals in the area of Dane and Iowa Counties. There are 40 positive animals with the new nine coming from the test results of the 350 animals that were collected during the August one week hunt. The September tissues are still pending in the lab. They are getting a good number of bow kill deer coming out of that area. That number is probably closer to 700 at this time. This is very favorable. Last year the entire bow harvest, for unit 70, was about 680 deer through the 90-day archery season.

About a week ago, staff appeared before Joint Finance requesting approval of the second installment of the \$4 million that was approved this spring in Act 108. One of the difficult areas they were dealing with is exactly where to get the funds from. Joint Finance did approve \$1 million coming from the Wildlife Damage Account, which means that a total of \$3 million has been allocated from that account from a balance of \$7 million when they started with \$1 million from the recycling fund. Mr. Hauge stated that he thought they were searching for ways to try and lift some of the financial burden from the hunters who have thus far bore the brunt of all this. Within the next month they will be going back to Joint Finance with a 1310 request, because there is still about \$3 million worth of anticipated costs that are as of yet unfunded. There wasn't any news to report on the federal front other than there are appropriations pending. Fiscal year 2003 federal appropriations in the USDA budget that could bring some money but probably not a lot. Mr. Hauge showed graphs indicating current status of license sales, running 22 to 23 percent down overall. The archery sales actually peaked just before the archery season and slowing are catching up every week. They have not yet seen that same response under the gun deer licenses.

At the urging of the Natural Resources Board, communication efforts have increased. They had six listening sessions around the state with well over 1500 folks attending. They expected more folks to attend given what they saw last spring. Typical attendance was in the 200-300 range at these meetings. At several of those meetings they were able to produce web broadcasts of the audio portion of them so that folks that could not attend could listen. Weekly CWD outdoor news updates have taken place. The promotional campaign to get hunters out that are a collation of partners have been working on is up and running.

Regarding surveillance around the state, Mr. Hauge stated that the processing centers are up and running. Most wildlife staff will be employed around the state for the next week working at these centers, either cutting heads off or extracting tissue. There are about 150 collection sites, not all those are operational over the next four days. Much of the west central region does not have Zone T seasons but anyplace there is a Zone T season, they are having staff working. They do expect to get good samples from deer management unit 61. No doubt they will get samples from land that was mentioned during citizen appearances. It is possible that we could reach our 500 deer target for a given county during this four days. They won't be testing fawns and a deer that has been head shot will not yield a usable sample.

They will have the hunters name, license number, phone number, and depending on where the hunter is in the state, they will record different levels of detail in terms of location. They will always be able to track back to a hunter and get additional detail. Hunters will receive a postcard if the result is negative letting them know. If the result is a positive, the hunter will be personally contacted by staff. They also going to provide an opportunity for any hunter that wants to check on the website, using their customer ID number, to access that information. They will also be putting up on the website a county by county tally, telling how many deer were collected, how many they have tested so far, and what the current result is. The soonest test results will start coming back with the very first results might be within a month or so. As they get results back on a weekly basis, postcards will be processed, and sent out.

In the last month, good news from the Department of Agriculture (DATCP) had worked with labs from around the country to secure an additional 200,000 capacity for tests, with about ten or so labs around the country. They were trying to provide additional opportunity above and beyond the 50,000 deer that we are going to be testing. If a hunter wants an alternative opportunity to get a deer tested, they have been working with DATCP to work with willing veterinarians around the state. DATCP has already trained a core of over 100,000 veterinarians from around the state to be certified to test or remove CWD samples as part of the deer and elk farm industry. In addition, about two weeks ago, they set up a training session at the Wisconsin Veterinarians Medical Association fall meeting in Milwaukee. They brought some deer heads in and arranged for any veterinarian that wanted to learn about this, not necessarily become certified under the Department of Agriculture rules but wanted to learn about this. DATCP is maintaining a list of willing veterinarians, in fact, they will have on their website a list of all the participating veterinarians and where they are located. If a hunter isn't able to participate in the Departments collection system they could make arrangements with their local veterinarian. The veterinarian could then remove the tissue and submit the key tissue to one of the participating labs. The hunter will pay for the program, much in the same way they pay for any other veterinarian services, with fees varying. Mr. Hauge presented a picture of the brain stem tissue within the deer head. Mr. Hauge demonstrated on his finger how large this tissue might be.

Within the last month, they had a second positive from a game farm deer in Walworth County. They continue to work closely with Agriculture to chart out what animals were on these facilities, those exposed to the positive animals and if they were shipped to another farms. These deer farm audits were planned prior to discovering CWD in the State of Wisconsin but they are also actively engaged in auditing deer farms in the state, with over 500 in the state. They have completed probably 120 some audits. Their purpose in doing this is to gather information about the integrity of the fences, review the records on the

facilities, and hopefully establish a baseline of program information that will be helpful to the Department of Agriculture on January 1, 2003 when they take over regulation.

Discussion pursued regarding live animal testing, tonsil tissue, age of live animal testing, implementation of live animal testing, deer farms and what the Department has been finding on them, and elk farmers.

In conclusion, Mr. Hauge, spoke of the end of the hunting season and wanting to discuss with local citizens as to what the next step will be. On October 30 there are scheduled eight township meetings where facilitators will be there to engage the attendees as to what their thoughts are in terms of the next step. Some folks mentioned there should be some kind of incentive for a hunter or landowner in the area to remove deer.

Discussion pursued regarding the numbers were for the rest of the state regarding bow kill, deer processors, and taxidermist numbers.

No action was taken on this informational item.

4.C. Retirement Resolutions.

4.C.1. Tom Harelson

4.C.2. Sharon Wasko.

4.C.3. William Worthman

Secretary Bazzell reviewed the careers of each retiree and commended them for their excellent years of service to the Department and the State of Wisconsin. Mr. Poulson MOVED, seconded by Mr. O'Brien, approval of the retirement resolutions, as presented. The motion was carried unanimously by those members present. Ms. Stepp was absent.

Mr. Willett requested that his name be added to Sharon Wasko's retirement resolution.

5. Board Members' Matters

5.A. Board Resolution for the North Wisconsin Rod and Gun Club in Ashland.

Mr. Willett MOVED, seconded by Mr. O'Brien, approval of the resolution for the North Wisconsin Rod and Gun Club in Ashland. The motion was carried unanimously by those members present. Ms. Stepp was absent.

5.A.1. **Herb Behnke** – Regarding the wolf problem that we have right now in the state. He referred to Mr. Fernengo's presentation at the September Natural Board Meeting regarding his ranch and wolf depredation he has been experiencing there. He also referred to a letter from Mr. Fernengo's veterinarian that serves his ranch. Last week Mr. Behnke responded to a call from a farmer in Oconto County who had a problem at his place. The caller didn't really know it was a wolf problem. About 80 heifers that were confined in an area on his farm and one morning, one heifer had a broken leg and the gate had been broken down. This didn't seem to be normal for those cattle because they had been quite docile up until that point. Mr. Behnke also visited several other farms, names that were given to him. While these other farms didn't report any problems, they did indicate they were seeing the wolves. These wolves had been put onto the Menomonee Indian Reservation, because they kill a cow and a calf somewhere else and they relocate them. They are released on the Indian Reservation. Because there is no food up there, the wolves immediately gravitated into Oconto County. They are now residing and being seen by a number of people. There are

about eight or ten farms he drove by, that had cattle outside, that were in pastures, in confined areas, regular kinds of pasture situations. He saw this as a disaster waiting to happen. The problem that he sees is that DNR and the Board are at a point in which their wolf management program where they probably have more wolves than they can reasonably relocate. Obviously, the wolves should not go into an area where they can immediately gravitate into these big mega farms, where they are now. If they would have gone south they would have hit another 350-cow operation where the coyotes have already taken care of a few calves every year that were born on the pasture. He stated that he understands there will be a down listing in the very near future, from endangered which will then give the state the control over the wolf herd. Mr. Behnke stated they need to amend the management plan and have it go into affect immediately at the time of down listing. Which would provide some guidelines as to where they relocate animals, what they do with predatory animals that actually attack farm animals. It is not good enough to say they are going to pay farmers for those that they can positively identify of having been killed by wolves. There are a number of animals that are unaccounted for that won't be paid for or not going to be paid for. He stated that he would think that the Department needs to have it very clearly spelled out what steps they will take with the wolf management program to keep the wolves away from domestic livestock. Further, the plan needs to spell out what an individual farmer can do when the wolves come onto his property, not after the damage occurs. There needs to be some kind of flexibility for these people to control what happens if the Department does not take care of the problem.

Mr. Behnke MOVED asking for and requesting that the wolf management plan be amended at this time and that it include these provisions regarding the control factors and that the Department come back to the Board at the December meeting with a proposed plan for adoption, as presented. Mr. Tiefenthaler seconded the motion.

Mr. Tiefenthaler asked if there should be an emergency rule for December. Steve Miller responded, that part of what Mr. Behnke is asking for is already done. He stated they needed to implement the control provisions on the down list under the Endangered Species Act. Those procedures have already been talked through already. As he understands it, he didn't think there was any rule action on their part. And, they now have the ability to get the permit from the Fish and Wildlife Service. Mr. Behnke responded that he wants to see in the management plan specifically what steps they are going to take as far as relocating wolves. The problem wolves, what are they going to do to relocate them. Do they need to depopulate wolf packs that are going to be potential problems instead of moving them somewhere else. These things need to be spelled out in the plan.

Discussion pursued regarding problem wolves, the wolf management plan, release sites of problem wolves, cattle farms, problems in Menomonee and Oconto Counties, depredation, means of getting ride of the problem wolves,

Dan Poulson stated that he wrote a letter to the Secretary because he was concerned as to how they were responding to the discussion that was held last month at their meeting. Mr. Poulson reflected on Mr. Fornengo and his presentation. He stated that he didn't have any problem listening to Mr. Fornengo's presentation and if there is depredation out there they should be able to take care of it. He further stated they are always going to have an argument as to whether the carcass is found or not found. Mr. Poulson stated they need to solve these problems about depredation and get on with this. Secretary Bazzell referring to a letter that went out a few days ago, which gave a history of what they have done. He stated that what the Board sees here and what Department staff has done is above and beyond the call of duty to try and resolve this situation and resolve it, providing fair compensation. He stated that he would suspect that many would say that it is still not sufficient. He suspects that they are now in litigation and since the most recent offer was rejected. Steve Miller, Administrator of Land Division, responded reflecting on Mr. Fornengo has formally filed an appeal and the status of his situation, presenting material to the Board reflecting this. He requested the Board to call him or Signe Holtz if there were questions.

5.A.2. Catherine Stepp was absent.

- 5.A.3. **Gerald O'Brien** – At the last meeting when we had citizen participation, Dr. Kent Hall appeared speaking on naming rights. A letter was sent from Secretary Bazzell. Mr. O'Brien asked if this issue had been resolved. **Secretary Bazzell** responded, they are very pleased right now. In fact, it has gone beyond that point to where the primary donor has now offered to pay for the entire project. It turned out very well. **Mr. O'Brien** stated that the reason he raised this issue is because somewhere in the process he thought he saw a document that had an old Board policy or an old Department policy on naming. He would like to see some sort of policy developed by the Board regarding naming rights so the people, where it would have the Board making the final approval, of naming of some things. **Secretary Bazzell** responded, there is in fact a policy and it draws a clear line in terms of where my authority ends and where the Board picks up in making such decisions. In fact, the resolution that we had on the new property was in full conformance with that manual code. I think where the problem was, some of the early work done with respect to fund raising didn't acknowledge and some of the folks involved weren't aware of the policy. Once they became aware of it and they understood it, they were very comfortable with that policy. We can certainly make that manual code available to the Board. You do have an action item later in this meeting where you have the opportunity to actually name a facility after a very generous donor.

Discussion and comments pursued regarding previously naming of wildlife areas, parks, and other things after people.

Mr. Tiefenthaler requested the history of this policy, where it originated, or where it came from.

Mr. O'Brien stated that on a number of occasions he has asked for an informational report on wetland mitigation and what is happening. He asked if it were possible for another person other than the Department of Transportation to mitigate under our current program and if it could put on the December agenda. **Secretary Bazzell** responded that he did recall that direction from Mr. O'Brien and he thought they talked about doing an update in six-month increments. Secretary Bazzell stated they could come to the Board and share what is happening with the early implementation of that administrative rule for the December Board Meeting. **Chairman Solberg** asked for an example of a specific mitigation site.

Mr. O'Brien, finally, Secretary Bazzell mentioned as a point of order, regarding Murphy Oil, stating that the Board does policy making. I would like to remind the Board and the Secretary that Chapter 15 provides that the Board is regulatory, advisory, and policy making. **Secretary Bazzell** responded that the point that he was making was that the Board clearly has typically drawn the line in not getting involved in individual permitting decisions or enforcement decisions. That clearly is a Department responsibility. This situation involves a specific permit. **Mr. O'Brien** responded, this could certainly have been considered advisory and certainly the Board could have passed a policy if it had to or if it were necessary. It could have been advisory. He has heard on so many occasions people calling on some of the issues and say that the Board is strictly a policy making Board and that isn't true. **Secretary Bazzell** stated that he understood the thrust of the conversation had to do with specific provisions that were being put in a permit and he thought that clearly goes beyond what the Board described here. **Mr. O'Brien** stated that he thought Mr. Willett requested that the Board should encourage the Department to work with Murphy Oil when they had to work with EPA. **Mr. Willett** responded that he wasn't telling the Department what to put in the permit but he felt that the Senator was making a good point. That was there are times when the Environmental Protection Agency doesn't see individual benefits to their policies and this may be one of them. He thought that if the Department could protect the environment, they can accomplish their objectives through the permit policy, and the affected citizen wants some permits, he thought the Department should support them. **Mr. O'Brien** stated that he looked at that as advisory. **Secretary Bazzell** responded, it becomes a function of how this plays out in the upcoming weeks and months. Again, I am not sure if we are on the same page as Murphy Oil. They had the chance, over the last year, to submit the data necessary to get specific additional limits to the permit and they chose not to do that. If they continue not to do that, I cannot in good faith go to EPA and advocate for Murphy if they are not going to adhere to the law. That is why I am concerned about giving the direction, work with Murphy, if they are not going to follow the law. I have seen correspondence going on for over a year asking Murphy Oil specifically to provide that analysis. I personally communicated with their CEO on a number of occasions asking him to provide

information, Mr. Fennessy, Mr. Smith, and Mr. Hochmuth have also requested this information. You have the top people in the agency appealing to Murphy. We do what we think the law is and what the law has said for the last 20 years. It is not that we have chosen a different pathway to advocate this.

- 5.A.4. **Stephen Willett** – It is my understanding that our emergency rule that deals with chronic wasting disease went into affect on July 3 and, therefore, it is a 150-day rule and it expires on the 30th of November. It is further my understanding that the Department believes that to properly analyze and make their programs effective they need to petition the Legislature Joint Committee on Rules for an extension of 50 days. By the 29th of this month we will need to submit a draft of that proposal of extension. It has also come to my attention that the rule itself, the emergency rule, has been affective, it is working, there are many aspects of it that are very important and need to be extended for at least 50 days so the Department can get a sense of where we are with this. This dreaded disease and how extensive it is, how serious it is, and so forth.

However, I need to say there is one provision of it that I think that we made a mistake in and I think it has the potential of being extremely devastating to our environment, that provision that is related to the baiting and the feeding. In our area, the hunting or the kill is down 70 percent. I think that in the gun season it will be equal to that. We were told originally that the Department thought that it might be down seven or eight percent and they had some reason to believe that was the case. I had some reason to believe that they were misinterrupting the seriousness of the baiting provisions in the hunting of deer, particularly in northern Wisconsin. Since I have been on the Board, I have been the Chair of the Enforcement Committee and I have been a great advocate of our hunting education and our hunting certification program. In that program there has been a great concern about drives and how that contributes to the death rate or the injury rate. The driving in Wisconsin has gone down proportionately to the success of that program and we have become safer.

We have an artificially large deer population. It is dangerously large, it is dangerous to itself, it is dangerous to the fauna population, it is dangerous to the drivers of vehicles, it is dangerous all the way around. If we don't have a successful hunting season and if we have a mild winter, we will have more deer than we have today. It should be our policy that we would do anything to assist our citizens in hunting those deer. I cannot believe that the spread of chronic wasting disease, looking at the statistical probability of CWD being spread through baiting and feeding versus the impact of an increased deer herd, if you would measure those two from a scientific point of view it would seem to me that the impact of a growing herd is far more devastating than the possibility that CWD would be spread during this period of time, the hunting season and the winter through possible nose to nose contact. Board Member Tiefenthaler proposed a two gallon limit broadcasting the feed so there would be no nose to nose contact. He did that because he was concerned about the spread of CWD.

Mr. Willett MOVED that the Board support the Departments petition to the Legislative Joint Committee on Rules for the extension of the CWD Rule with the exception of those provision that relate to baiting and feeding. That they allow those two provisions to expire and that during the gun season, nine days to waive the ban on baiting and feeding. Mr. Tiefenthaler seconded, amending a modification to restrict along the guidelines that were previously set out during the June meeting by Mr. Tiefenthaler, and, to extend it through the end of the bow season ending January 3, 2003. Mr. Willett seconded the amendment.

Discussion pursued regarding waiving baiting for nine days during the gun season, the amount of two gallons broadcast over per 40 acres, amend it for the rest of the hunting season and then reinstate the ban, baiting being used as a hunting tool, feeding versus baiting, and calls received from elderly citizens requesting reinstating feeding deer,

Mr. Behnke responded, I don't get the calls that these Board Members receive. I have had no calls from people that say we should reinstate this for this hunting season or for any other reason. We debated this, we made a decision some time ago in the interested, in the best interest of the resource, in order to cope with a disease problem that we know very little about. Until we understand where it is, what it is, how to work with it, this is the reason why we maintained the course that we are on. I cannot see changing now,

abruptly, and saying we were wrong. We have no evidence whatsoever that the decision we made before was wrong. At this point, we need to keep in mind the objective of not spreading this disease until we find out that these practices will not in affect spread the disease. Not everyone is going to spread the feed out like you would, they are going to dump it like they always did and it becomes then a problem for the wardens. I really don't think that we should take any further action at this time. If the Legislature decides that it was a bad deal, then they will make that decision. It is not up to us, I don't believe, as individual Board Members or as a whole, to contact people of the Joint Committee Review of Administrative Rules and tell them that I think you should do this or that. I am not going to and I don't think anyone else should either. I believe that we should leave this alone.

Secretary Bazzell, I guess I would raise the question as to whether the Board has the authority today to take such an action. What we are talking about is an emergency rule that the Board passed in June. It was my understanding that the rule would be in effect until we could put a permanent rule in place next year. This resolution or motion that has been offered has not been publicly noticed, there has not been public input, and I question whether the Board can amend a rule that is currently in effect through a motion without publicly noticing it and putting it properly on the Board Agenda.

Mr. O'Brien, I was going to raise the same issue Secretary Bazzell of whether we can do it or not. When I voted originally for this ban, I did so intending to go through the season and see what happens. When we get information back as to where the disease is, how much there is, how bad it is, then we can take the appropriate action. I think that we are being improper now. I hear people talking of this huge crisis that the state is going to be inundated with huge amounts of deer. There are a lot of other things that we can do if we find out that the deer kill is way down. We can take some other action at that time. For me I want to wait this out and see what happens as a result of this deer hunting season and also the testing results, then take some action. When we have the information, I don't like to act without information. So I will vote against this.

Mr. Willett, one of the problems is that we have not put into place anything in this rule or anything in the measure of it on the issue of baiting and feeding. We are going to test to see how pervasive it is and I think that is a must in setting a policy. But, we haven't done anything that is going to give us information about the issue of baiting and feeding. There is nothing in the proposed extension that is going to do that. To postpone this issue to get some information that you don't have today is not going to happen. It hasn't been structured in that way. Regarding Mr. Behnke's concerns, he says that he is not getting these calls and we in the north have been. I have my wife with me because the Governor asked her to be here. The reason that the Governor asked her to be here is to share with you the results of our listening sessions that we went to around the state. One of them we literally almost got tarred and feathered. We were at the Moose Jaw Resort and the issue of CWD came up. They were very aggressive on the issue on not how we were handling CWD but on how we were handling the baiting issue. Their fear was that the reason that people weren't hunting was because they couldn't shoot deer. The deer wouldn't come in without the baiting. That the reason that people were not hunting and the fear of CWD because the Department was doing an admirable job of convincing people that the risk was relatively low at this point and they should hunt. But, the reason that they weren't hunting, bow hunting in particular, was because of the baiting. I can't believe that in nine days that CWD is going to go wild and spread if we waive the rule for nine days. Far more serious is the fact that we don't kill our requisite number of deer.

Chairman Solberg, I live in northern Wisconsin so I don't know what is going on in southern Wisconsin. The fact of the matter is, one supplier of corn, instead of sending seven semi loads into northern Wisconsin he is sending two semi loads a week. So the deer are getting fed up there, just not as much. If there is going to be a chronic wasting disease problem from feeding it is happening already. The other practical point, the Native Americans, and no one ever told us this, can bait on any part of the seeded territory or on private lands so that is going on. That is the practical part of what is happening in my part of the state. The other thing that is going on in my part of the state is the deer kill is way down. I agree with what Mr. Willett and Mr. Tiefenthaler are saying and I do understand what Mr. Behnke is saying, but it is because of baiting. The people that I have talked to are going to eat those deer, not everyone. But it is because of

baiting deer for 25 years or more, in many cases 30 some years, it has been going on, it is something that happens, it is a tradition, and it is also an ethical issue. It is a landowner versus a non-landowner issue. These property rights in our part of the state, people are getting fed up with being told of what to do in a lot of the cases. In many cases, I know some folks there saying they are not buying a hunting license because they can't bait. I agree that we need to kill these deer. We are not killing these deer and it is the only management tool that we have to control the herds. The deer are getting the corn already, they aren't getting as much as they did, but it is happening. People are doing it and that is the practical part of it and we need to figure out a way to get the deer killed.

Mr. Behnke, I think I made my point. If you are baiting or feeding, the food is out there and the deer will come to the bait until January 3. On January 4 there is no bait and the snow is high. Where do they go for food. They will keep coming back to that same area looking for food, they aren't going to spread out like they did when we quit feeding in July. It is inhuman, it is like feeding birds until Christmas and then all of a sudden you no longer feed the birds. Where do they go.

Mr. Tiefenthaler, the amendment had nothing to do with feeding. Feeding as I defined it when we were at the Manitowoc meeting is a separate issue and at that time I said I was going to define feeding versus baiting as two separate issues, which they are. No one else has been able to define it so I weighed in and defined it. This amendment has to do with baiting as a hunting technique only. Baiting is not feeding. Baiting, as I proposed, a two-gallon limit per site, a total of three per 40 acres maximum would be in a 24-hour period. Deer will finish up a two-gallon site in a hurry. This is not sustaining a herd, this is a hunting tool only. This is not inhuman in any way at all because you are going to be hunting over that and those hunters that do this are only hunting over this. I for one hunt on weekends and would only be baiting during that time. Now, other people do it every single day, that is fine, they can do that. But it is going to be severely restricted from the 10-gallon limit that we had before which could have been considered feeding, according to definition. Or unlimited feeding where they aren't hunting over it. Holding deer on private land or in an area that was totally unrestricted. This amendment that I made for Board Member Willett is for the hunting season, it is a hunting technique, and it is severely restrictive from what we had, which was totally unregulated before, other than a 10-gallon limit and you could have untold number of sites on a 40-acre plot. It is not going to sustain a herd, it is for herd control and it is for assisting the hunter, particularly the bow hunter to harvest more deer. And, to encourage the gun hunter to get out in the woods and hunt.

Discussion pursued regarding sources of food, deer moving to other areas to find food, dates of hunting season, and an inhuman system of feeding deer.

Secretary Bazzell, I need to state again, I have two attorneys sitting on the Board here, at least in my experience in working with this Board and understanding the administrative rule making process, particularly with the discussions that we have had on proper public input. I question that the Board should pass such a motion today without properly noticing that there is an emergency rule on the table, and has not been public noticed. I am not speaking to the merits, I am speaking to process and procedure and I question whether or not the Board is following its proper procedure that it has followed for many decades.

Mr. Willett, in the first place you always have this provision under Board Members' Matters. We have had that since 1968. You have allowed the Board members to bring forth issues and this is one of those issues. It is not an emergency rule it is a request to waive an emergency rule that arguably was not adequately noticed and was sprung on us at the eleventh hour. I think we have created some of this problem ourselves. The bottom line is I think we have the power to waive for those nine days that provision of the emergency rule that we put into place. The second provision is, that the Department is going to go ahead on November 29, proposing to petition for the extension of this rule. That is policy rule and no one came to the Board and asked if we should do it. No one asked us to hold hearings on it, the answer that I got was the Legislature is going to do that if they take the rule up and so we don't have to do it. I think it is an issue of if we are authorizing the Department to take that step. No one asked us and I am

saying that I am not opposing the Department to do it but I am saying that if the Department would have asked I would have told them you need to modify the petition.

Secretary Bazzell, the emergency rule that the Board passed in June was properly public noticed. In fact, there were 37 people who showed up who testified with some passion on both sides of the issue particularly on baiting. So, we did go through the proper and legal public participation process. Lets' be clear on the action the Board, in fact, took in June. Things were done legally and properly. On the question of extending the rule, clearly it was my understanding and I suspect others around the table understanding that it was the Board's intent to pass the emergency rule until such time, I think as Board Member O'Brien has stated here, that we have results from the fall hunt and we could put a permanent rule in place. That was clearly the Board's intent. Our intention at the end of this month is to carry that Board direction forward to Legislation. To carry out that intention, the emergency rule does have to be extended beyond the initial 150 day time period. What we are doing is clearly consistent with what we understood the Board's intent to be. **Mr. Willett** stated that he disagreed. **Chairman Solberg**, I disagree also, only from the point that what you are saying is all right. Where I disagree is that was the intent, however, from what is happening in our part of the state especially, the deer kill being way down and if we don't do something about it and it is a problem. We now find out that the deer kill is down further than we ever thought. I look at this and say we have a problem here. Now is the time to take a midcourse correction and do something about it. I would vote for your amendment at this time Board Member Tiefenthaler but what Board Member Willett is saying for the nine days only and then telling the Legislature that we have a problem here and let them make up their mind after that. **Secretary Bazzell**, I think it was the Board's intent that the rule be extended. Again, you will recall that this rule deals with provisions that go well above and beyond baiting and feeding. For example, you said a hunting season in an intensive harvest area that runs from October through the end of January, so clearly it was the Board's intent of this rule to go beyond November 30. **Mr. Willett**, I don't think that it was intended that it would not go on without review and without some modification. I don't think that we said that it is etched in stone without exception. I think that it was intended that we look at the various aspects and see if there were some midcourse adjustments that needed to be made. **Secretary Bazzell**, that is a discussion that has never been had Mr. Willett. **Mr. Behnke**, that was never a part of it. **Secretary Bazzell**, the Board does have the authority to change this, not weighing on the merits of the motion or the amendment that this is not the legal and proper way to accomplish that. We are talking about an administrative rule that has the force of law that has clearly been implemented.

Chairman Solberg, reading from the agenda, . . . matters concerning natural resource issues or the Department's program responsibilities or operations specified in the Wisconsin Statutes, which are not on the agenda, may be acted upon if the Natural Resources Board determines it is urgent to act. Such matters may be raised as the result of discussions under agenda items, Committee of the Whole, Board Members' Matters and Department Secretary's Matters.

Mr. Tiefenthaler, we must petition the Joint Legislative Committee for the authority to extend. They indeed could hold a hearing procedurally to review what that extension might be, is that true? **Secretary Bazzell**, what they have to do by law is, they have to take a formal action to extend it or not to extend it. So they are going to have to meet to make a decision or what their desires are. **Mr. Tiefenthaler**, would they then indeed take testimony at that time? **Secretary Bazzell**, I would anticipate that they would do such. But then again, they have not indicated that but that is the typical process. **Mr. Tiefenthaler**, so if we ask for a waiver on the petition and it wouldn't reach them until November 30, half the deer season would be over already. **Mr. Willett**, that is my point. They won't take this up until after the 30th because they have to be noticed 30 days in advance that we are going to make the petition to extend. So at the end of October the Department has the obligation to extend. Part of the reason that we didn't have a detailed discussion on it is that we really didn't know the extent of the procedure. **Mr. Tiefenthaler**, I just found out this week or late last week about the procedure and I asked to put a press release out on it so everyone understood what it was because of all the calls that I was getting on this baiting issue. **Mr. Willett**, my understanding is that the Department, by the end of this month, must give notice that they are going to ask for extension of the rule. My motion was, of course, that they look at the issue of the extension of baiting and feeding, apparently that isn't going to work. So I am not going to make that motion. **Chairman**

Solberg, as I understand it, your motion was to waive baiting for the nine day gun season and ask the Department when they go to the Joint Legislative Committee that they should revisit the baiting and feeding issue. **Mr. Willett**, that is exactly right, that was my motion.

Mr. Tiefenthaler, I withdraw my amendment.

Mr. Willett, I withdraw my second on the amendment.

Chairman Solberg asked if there was any further discussion on the motion.

Secretary Bazzell, on the merits of the motion, again, obviously the Board knows the Department's strong position and I would certainly suggest again given the discussion, we have been admonished twice this morning about allowing the public to weigh in on important critical issues, and it is disheartening to see this discussion go on without the issue of strong interest on both sides of the question without giving the public a chance to comment. I would also suggest that the wording of the motion is not in writing anywhere and at least that I have heard it described leaves it very unclear as to what the Board's desires are and what in fact it would do. I don't know what it is that you are in fact asking us to do. In terms of going back to the Joint Legislative Committee, it is very unclear of what it is you are asking us to do. Are you asking us to amend it or asking us not to amend it.

Mr. Willett, to review the provision of baiting and feeding. We always ask the Department to take another look at something. What we are saying that at the end of 150 days you are going to have enough information to say that either this ban on baiting and feeding is working and we recommend that it continues. Or, there may be some problems on it and we are interested in making some adjustments in it.

Secretary Bazzell, I would also point out again that this is reflecting some input from constituents from the north woods. The motion, as I understand it, has statewide application in the eradication zone and that causes me great concern. **Mr. Behnke**, this couldn't be implemented in time for this hunting season, Board Member's motion, could it? **Mr. Willett**, sure. **Secretary Bazzell**, if this motion were to pass I would assume that it would take place immediately. Board Member Willett wants the emergency rule amended now to allow for baiting during the nine day gun deer season. He is also saying that when we go to Joint Legislative Committee, at the end of this month when the rule expires at the end of November, they will review the policy as it relates to baiting and feeding. So they are two separate actions.

Mr. Behnke asked if the first part of this require legislative oversight. **Secretary Bazzell**, my understanding, in the way the process works, it requires a green sheet that specifically amends the emergency rule that the Board has already passed. That would be my interpretation. **Mr. Behnke**, I don't know if I totally agree with that because of what Chairman Solberg just read from the Agenda indicated that the Board could take action on specific items of interest. **Secretary Bazzell**, typically the interpretation does not include an amended administrative rule. I have not seen that. That type of interpretation. I think that stretches the bounds of what is intended by that language. **Mr. Behnke**, what if this motion passes and the hunting season, the nine day hunting season, begins right now. Would it require for the Joint Committee or some legislative committee meet before then to approve? **Secretary Bazzell**, no because it is an emergency rule it would go into affect immediately.

Chairman Solberg, Secretary Bazzell did bring up one point here about it would be statewide. Originally, when we talked about this a year ago in October, when we made this policy as far as any disease was concern, any disease found in the State of Wisconsin, significant disease which was one animal we would go in that unit and any of the deer management units surrounding and we would stop baiting and feeding. That was the policy that we passed one year ago.

Mr. Tiefenthaler withdrew his amendment. I think we should have guidelines of spreading out the baiting and it should not be 10 gallons. If there is any CWD spread in this manner, I think we should say two

gallons. **Mr. Willett**, Chairman Solberg is right. It should not be in the eradication zone. **Chairman Solberg**, not in the eradication zone and the units around it. Two gallons on a 40-acre site.

Mr. Willett withdrew his motion.

Mr. Willett MOVED a motion with the exception that for the nine days we will allow outside the eradication zone and the surrounding counties, baiting up to two gallons per 40-acres in 24-hours, having the Department go to the Joint Legislative Committee, as presented. **Mr. Tiefenthaler** seconded the motion. The motion failed by a vote of three to three. Ms. Stepp was absent.

YES

Stephen Willett
James Tiefenthaler
Chairman Solberg

NO

Herbert Behnke
Gerald O'Brien
Howard Poulson

- 5.A.5. **Dan Poulson** – Asked when are we going to know what is going to happen with the ethanol plant. **Secretary Bazzell** responded, to bring the Board up to date what is happening with that ethanol plant just outside of Oshkosh. There was a law suit that was filed challenging permits because the construction permits were not consistent with existing land use plans of that area. The people filed the lawsuit in local circuit court. My understanding is that the defendants intend to appeal that decision. The timeline isn't clear in terms of how that issue will be resolved and over what time period.

Mr. Poulson, on the Badger Ordinance works at Baraboo, Mr. Poulson asked when they were going to have some idea of what is going to happen. **Secretary Bazzell** responded, we hope to have that straightened out fairly quickly. The Ho-Chunk Nation continues to look at this issue. They did take a look at it yesterday and did not feel they had a package that they could feel totally comfortable with at this point in time. We hope to have this resolved, hopefully, within the next several weeks. **Mr. Poulson** stated that his concern was with the Portage Research Center. **Secretary Bazzell** responded, there is total agreement that we move forward as long as it wants to continue, they would be with the landowners.

Mr. Behnke commented, I like the present meeting format that we have on our agenda for this meeting. I think it is the way to go because I think that we need to conduct the business that we came here to conduct. However, I would suggest that the open Citizen Participation could have a specific time so they know when to come. Citizen Participation to take place at 1:00 p.m., whatever we are doing, we take the citizens at that time. **Chairman Solberg**, generally that is how it is going to work.

- 5.A.6. **James Tiefenthaler** – I would like the Department to do a press release and put on the web, the procedure for what we are going through in applying by October 29 with the Joint Legislative Committee. I just found out last week what we are doing regarding this issue and there are a lot of people that don't know this. Make it available to the public so I don't have to keep taking these phone calls and try to find out myself what is going on.

- 5.A.7. **Chairman Solberg** – I have nothing.

6. **Special Committees' Reports**.

There were no Special Committees' Reports this month.

7. Department Secretary's Matters.

7.A. DONATION – from National Wild Turkey Federation for \$6,992 for habitat restoration.

Mr. Willett MOVED, seconded by Mr. O'Brien, acceptance of the donation. The motion was carried unanimously by those members present. Ms. Stepp was absent.

7.B. DONATION – from National Wild Turkey Federation for \$6,000 for habitat restoration.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien, acceptance of the donation. The motion was carried unanimously by those members present. Ms. Stepp was absent.

7.C. DONATION – from Friends of Rib Mountain State Park for \$100,000 for the building of an education/nature center addition.

Secretary Bazzell stated that they would like to name that facility after the primary donor.

Mr. O'Brien MOVED, seconded by Mr. Tiefenthaler, acceptance of the donation. The motion was carried unanimously by those members present. Ms. Stepp was absent.

Chairman Solberg called on Linda Jahns, Executive Staff Assistant to the Board, who has been with the State of Wisconsin for 20 years.

Secretary Bazzell stated that the Department recognizes employees for years of service in five-year increments. He stated that Linda is celebrating her 20-year anniversary in state service and presented her with a letter of recognition and a 20-year pin.

The meeting adjourned at 1:35 p.m.